

REMARKS

In response to the above Office Action, the typographical errors on page 10 and in claims 1 and 20 have been corrected. Claim 21 has also been amended to avoid the noted objection to the claim.

In addition, claim 20 has been amended to avoid the rejection of the claim under 35 U.S.C. §112, second paragraph by referring to components of the knife as comprising a blade end having a blade and a handle end having a hollow, substantially cylindrical handle. As shown, for example, in Fig. 15 and discussed on page 9, line 22 to page 10, line 2, the blade end 60 of the knife has a blade 62 and the handle end 64 has a hollow handle 52 that extends from the handle end 64 of the knife towards the blade end 60 of the knife. It is believed claim 20 and claims 21-22 dependent therefrom now comply with the requirements of §112, second paragraph.

Further, claim 24 has been amended to avoid the rejection of the claim under §112, second paragraph by simply reciting that the blade of the knife "is located" in the slits of the second and third items when the items of cutlery are in the nested condition.

Withdrawal of the rejection of the claims under §112, second paragraph is therefore requested.

The indicated allowance of the subject matter of claims 10, 25 and 27 is appreciated. These claims have now been cancelled and rewritten as new claims 28, 30 and 31, respectively. More specifically, claim 10 has been cancelled and rewritten in independent form as new claim 28 to include the subject matter of claims 1 and 5. Withdrawn claim 11 has been cancelled and rewritten as new, withdrawn claim 29 dependent from claim 28.

Claim 25 has been cancelled and rewritten in independent form as new claim 30 to include the subject matter of claims 23 and 24.

Finally, claim 27 has been cancelled and rewritten in independent form as new claim 31 to include the subject matter of claims 1, 4 and 26.


It would appear claims 28-31 are now in condition for allowance. Though the invention of claim 11, now claim 29, had been withdrawn, now that it depends from an allowable claim, it is believed it can be reinstated in the case. Also, though the Examiner had noted in section 10, on page 10 that claim 25, now claim 30, had been rejected under §112, second paragraph, claim 25 was not included in the §112 rejections in section 7 on page 3 of the Office Action.

In the Office Action, the Examiner rejected claims 1-5, 7, 8, 12, 15, 18-24 and 26 under 35 U.S.C. §103(a) for being obvious over a newly cited reference to DeSchutter, U.S. Patent No. 5,904,250, in view of Formo. The withdrawal of all previous grounds of rejection is appreciated. However, it is believed the noted claims are not obvious over DeSchutter in view of Formo for the following reasons.

With respect to independent claims 1 and 23, although FIG. 7 of DeSchutter shows that one handle (possibly) extends more than halfway around a second handle, the outermost item does not grasp the adjacent, innermost item to "hold" the item in a nested condition, i.e., the outermost item does not grip the innermost item, as is the case in the present invention and as set forth in these claims. It is clear from DeSchutter that the cutlery items are only "held together" when they are bound by a strap, a banderole or a tape, a clamp or a binder 42, (see column 1, lines 56-57, column 2, lines 65-67 and column 3, lines 1-4 and FIG. 8).

In the present invention, the items of cutlery are designed such that an outermost item of the cutlery set will hold an inner item of cutlery, such that the items of cutlery are held together in a nested condition, without the use of any external aid.

There is no teaching or suggestion in DeSchutter to change the design of the cutlery so that no external aid is necessary.

Formo also does disclose ^Sstackable ^{or} ~~as~~ nested sets of cutlery. However, Formo  also lacks the feature of the nested items being held together by virtue of an outermost item of cutlery gripping an inner item. In Formo, the items of cutlery are merely stacked in a nested fashion. There is no teaching or suggestion to have cutlery items hold each other together, as claimed. In fact, the cutlery handles in Formo even comprise lugs on their inner surface, to support the stacked cutlery. These lugs further show that the cutlery items are not held together.

In summary, neither DeSchutter nor Formo teaches a cutlery set assembly where the items of cutlery are nested and the handle of an outermost item grips the handle of an inner item, such that the items are held together in the nested condition.

In both DeSchutter (when no external aid to fix the items in the stack together is present) and Formo, the items of cutlery can be readily lifted off one another. No force need be applied to separate the cutlery items from each other, because they do not hold each other together, as in the present invention.

Accordingly, it is not believed that claim 1 or claims 2-5, 7, 8, 12, 15, 18, 19 and 26 dependent therefrom as well as claim 23 and claim 24 dependent therefrom are obvious over the teachings of DeSchutter and Formo.

With respect to claim 20, neither DeSchutter nor Formo teaches a knife having "a rib forming a continuation of the blade, the rib being joined to the inner surface of the

hollow handle and extending from the blade of the knife centrally along the inner surface of the hollow handle” as set forth in the claim.

In DeSchutter, the knife is designed such that when a plurality of knives is stacked together, each of the two flat surfaces of the blade of one knife is adjacent to a flat surface of the blade of the adjacent knives (see FIGS. 3 and 4 for the knife, and for comparison, FIGS. 1 and 2 of the spoon).

Viewed in cross-section, the handle in DeSchutter has a U-shape, with two legs connected in obtuse angles to a top wall portion (see DeSchutter, column 2, lines 22-26 and FIGS. 3, 4 and 7). The blade of the knife lies in the same plane, or at least parallel, to the top wall portion of the handle.

The blade of the knife in DeSchutter does not extend into one leg of the U-shaped handle. Leg 14 lies on the same side of the knife as the blade. However, leg 14 does not extend from the blade, but instead extends from leg extension 24 (see DeSchutter, column 2, lines 27-26 and FIG. 3). Further, leg 14 does not extend from the blade of the knife “centrally along the inner surface of the hollow handle” as set forth in claim 20.

Even if portion 32 (rather than leg 14) is regarded as “a rib forming a continuation from the blade” (see DeSchutter, column 2, lines 45-49), this portion 32 is not joined to the inner surface of the hollow handle, and does not extend from the blade of the knife “centrally along the inner surface of the hollow handle.”

Although the Examiner only rejected claim 20 over DeSchutter, Formo also shows a knife handle shaped as a “U,” with two legs of the “U” veering outwards at obtuse angles from the top portion (Formo, column 2, lines 46-50). In fact, the handle in

Formo is very similar to that in DeSchutter, with the exception of leg extension 24 that is not present in Formo.

The blade of the knife in Formo (50) does not extend into the leg 24 of the U-shaped handle. This is clear at least from the fact that the leg lies at an angle to the blade of the knife (see FIGS. 1, 2 and 3).

Further, neither the partial rib 54, nor the leg 24 (see FIG. 1 of Formo), extend from the blade of the knife "centrally along the inner surface of the hollow handle."

Accordingly, it is submitted that neither the blade in Formo nor the blade in DeSchutter can be understood to have "a rib forming a continuation of the blade, the rib being joined to the inner surface of the hollow handle and extending from the blade of the knife centrally along the inner surface of the hollow handle," as set forth in claim 20 and as shown in FIGS. 13 and 14 of the present application.

In fact, there is no feature in the knife of Formo or DeSchutter that extends from the blade of the knife centrally along the inner surface of the hollow handle.

In addition, in the present invention, a gripping effect is achieved by the substantially cylindrical shape of the handle of the knife. Rather than having two short legs that extend at an obtuse angle from the top portion of a handle as in the references, in the present invention, the "legs" of the handle of the present invention extend back around towards each other (see FIGS. 3, 4, 7b, 11 and 16 of the present application). This feature allows for the handle of the knife to grip the handle of a second cutlery item, when the handle of the second cutlery item is placed within the handle of the knife without the use of any external binding device.

Neither Formo, nor DeSchutter, teaches such a handle, nor would the skilled person be motivated to alter the handle design of Formo and DeSchutter in such a way.

Accordingly, it is not believed that claim 20 or claims 21 and 22 dependent therefrom are obvious over the teachings of DeSchutter and Formo.

Withdrawal of the grounds of rejection of claims 1-5, 7, 8, 12, 15, 18-24 and 26 under §103(a) and their allowance is therefore requested. If claim 1 is allowable then it is requested that withdrawn claims 9, 13, 14, 16 and 17 be reinstated in the case as they all depend directly or indirectly from claim 1.

In view of the foregoing remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant, therefore, requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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